

## **REMARKS**

With entry of this amendment, claims 1-37 are pending in the application. By this amendment, claims 1, 15 and 32 have been amended, without prejudice, and new claims 33-37 have been added. Applicants reserve the right to pursue any subject matter cancelled from the claims in one or more related applications. All of the amendments herein are fully supported by the disclosure, and no new matter has been added to the application.

### **Patentability Under 35 USC § 102(b)**

Claims 1-13, 16, 17, 22, 25, 31 and 32 are rejected under 35 USC § 102(b) as allegedly anticipated by Meckelburg, US 3,154,070, on similar grounds as presented in the prior Office Action dated October 13, 2004.

Applicants respectfully traverse the asserted grounds of rejection set forth in the record with respect to claims 1-13, 16, 17, 22, 25, 31 and 32, and submit that the subject matter of claims 1-13, 16, 17, 22, 25, 31 and 32 is neither disclosed nor suggested by Meckelburg, US 3,154,070, for reasons of record (see, e.g., the specification, and Amendment dated February 14, 2005), and based on the further evidence and remarks presented herein below.

In a related rejection, the Office maintains that claims 1 and 27-30 are allegedly anticipated under 35 USC § 102(b) by De St. Cyr, US 2,210,618, on similar grounds as presented in the prior Office Action dated October 13, 2004.

Applicants likewise respectfully traverse these asserted grounds of rejection set forth in the record, and submit that the subject matter of claims 1 and 27-30 is neither disclosed nor suggested by De St. Cyr, US 2,210,618, for reasons of record (see, e.g., the specification, and Amendment dated February 14, 2005), and based on the further evidence and remarks presented herein below.

Applicants note for the record that, for purposes of clarity and without intent or effect to limit the invention, all pending independent claims (previously-presented claims 1 and 32, and new, independent claim 33) have been amended to recite that the instantly-claimed facial or neck patch features “an undersurface adapted for effective delivery of an anti-aging compound.”

With reference to the instant disclosure, and in consideration of the cited art as construed by the Office, it is apparent that neither Meckelburg, US 3,154,070, nor De St. Cyr, US

2,210,618 teach or suggest a facial or neck patch having “an undersurface adapted for effective delivery of an anti-aging compound.”

With respect to Meckelburg, it simply discloses a mask made of “a liquid saturated cellular elastomer in contact with the epidermis.” [Meckelburg, column 2, lines 11-12] There is no disclosure that the mask of Meckelburg has “an undersurface adapted for effective delivery of an anti-aging compound.”

Furthermore, as previously discussed, the disclosure of Meckelburg fails to teach or suggest a facial or neck patch or mask comprising an anti-aging effective compound to prevent or alleviate symptoms of skin aging. Meckelburg discloses a mask for cosmetically altering the appearance of skin, for example by wet massaging the skin with a mask 10 (FIGS. 1 and 2) placed over it. The mask 10 is made from a material that holds water that is dispensed to the skin and further functions by exerting suction on the skin. This wet massage mask thereby cosmetically reconditions the appearance of skin by the limited mechanisms of hydrating the skin with water dispensed from the mask 10, massaging the skin by external pressure on the mask 10, and expanding the skin by application of external suction from the mask.

Accordingly, Meckelburg fails to disclose the instantly claimed invention, which expressly requires delivery of an “anti-aging effective compound” to the skin via an anatomically conforming patch or mask. As is specifically described and claimed by Applicant, the present invention delivers the subject anti-aging compound “in an effective amount, and for an effective period, to prevent or alleviate symptoms of skin aging in the facial and/or neck skin area to which the patch or mask is applied.” Meckelburg’s device clearly fails to satisfy these terms and limitations as they would be appreciated by those skilled in the art. In fact, the Meckelberg device does not depart significantly from a water saturated wash cloth in its structure, chemical composition, and function--except with regard to the honey comb structure that reportedly retains water and functions in mediating suction forces to expand the skin. These facets of the Meckeburg device clearly fail to anticipate the foregoing elements and limitations of Applicant’s invention directed toward prevention and reduction of skin aging.

With respect to De St Cyr, it simply discloses a mask which allows the application of a wax composition to the skin. To accomplish this, the wax composition is applied to the skin using thin white cloths. [De St Cyr, page 2, column 1, lines 58-59] There is no disclosure that

the mask of De St Cyr has “an undersurface adapted for effective delivery of an anti-aging compound.”

Furthermore, as previously discussed, the disclosure provided by Cyr fails to teach or suggest a facial or neck patch or mask that functions to deliver an “anti-aging effective compound...to prevent or alleviate symptoms of skin aging”. On the contrary, Cyr describes a heating pad 1 (FIG. 1) that functions to apply liquefied wax to skin to reduce skin dryness, remove excess matter from skin pores, and refine skin texture. Accordingly, like the device of Meckelburg, Cyr’s heating pad is constructed and used for a limited purpose of cosmetically altering the appearance of skin. It does not contain or deliver an “anti-aging effective compound” as recited in the instant claims, nor does it function to “prevent or alleviate symptoms of skin aging” as described by Applicant.

In addition, new independent claim 33 and all claims dependent thereon are limited to specific anti-aging compounds which are not disclosed in either Meckelburg, US 3,154,070 or De St. Cyr, US 2,210,618. In particular, claim 33 and all claims dependent thereon are limited to the following anti-aging compounds: a ubiquinone; plastoquinone; vitamin A; vitamin B6; vitamin C; vitamin D; vitamin E; glutathione; carnitine; arginine; taurine; cysteine; methionine; superoxide dismutase; catalase; alpha lipoic acid; dihydrolipoic acid; proanthocyanadins; and melatonin. None of these compounds are either disclosed or suggested by Meckelburg and De St Cyr.

In view of the foregoing, the rejection of claims 1-13, 16, 17, 22, 25, 31 and 32 under 35 USC § 102(b) as allegedly anticipated by Meckelburg, US 3,154,070 and the rejection of claims 1 and 27-30 as allegedly anticipated by De St. Cyr, US 2,210,618 should be withdrawn.

### **Patentability Under 35 USC § 103(a)**

Claims 10, 14, 15, 18, 19, 21, 23, and 24 are rejected under USC § 103(a) as allegedly unpatentable over Meckelburg, US 3,154,070, as applied to claims 1-13, 16, 17, 22, 25, 31 and 32 (of record), in combination with the following secondary references. Claims 14, 15 and 24 are rejected over Meckelburg in view of Korol, US 4,747,845. Claims 18-19 are rejected over Meckelburg in view of Lorenz, US 5,306,504 A. Claims 20, 21 and 23 are rejected over Meckelburg in view of Kaddurah-Daouk, US 6,242,491 B1.

Applicants respectfully traverse the foregoing grounds of rejection and submit that the subject matter of claims 14, 15 and 24 is neither disclosed nor suggested by Meckelburg in view of Korol, US 4,747,845, that the subject matter of claims 18-19 is neither disclosed nor suggested by Meckelburg in view of Lorenz, US 5,306,504 A, and that the subject matter of claims 20, 21 and 23 is neither disclosed nor suggested by Meckelburg in view of Kaddurah-Daouk, US 6,242,491 B1, for reasons of record (see, e.g., the specification, and Amendment dated February 14, 2005), and based on the further evidence and remarks presented herein below.

Applicants note for the record that, for purposes of clarity and without prejudice nor intent to limit the invention, all pending independent claims (previously-presented claims 1 and 32, and new, independent claim 33) have been amended to more distinctly recite that the instantly-claimed facial or neck patch features “an undersurface adapted for effective delivery of an anti-aging compound.”

This feature is neither disclosed nor suggested by the primary reference (Meckelburg, US 3,154,070), as discussed in detail above, nor by any of the secondary references (Korol, US 4,747,845; Lorenz, US 5,306,504 A; Kaddurah-Daouk, US 6,242,491 B1) cited by the Office. In addition, new independent claim 33 and all claims dependent thereon are limited to specific anti-aging compounds which are neither disclosed nor suggested by either Meckelburg, US 3,154,070, as discussed in detail above, nor by Korol, US 4,747,845 or Lorenz, US 5,306,504 A cited by the Office. Although Kaddurah-Daouk, US 6,242,491 B1) does disclose some of the compounds set forth in the claims, such disclosure does not cure the deficiencies of Meckelburg, US 3,154,070 noted above and in the Prior Amendment.

Furthermore, as previously discussed, the alleged teachings of Korol, if accepted as describing a resin matrix for extended release of medicaments via an external skin dressing, fail to remedy the above deficiencies noted for the primary reference. Korol does not provide an anti-aging effective compound, or any device to prevent or alleviate symptoms of skin aging--and a proposed combination of Meckelburg and Korol would not remedy the deficiencies of Meckelburg to yield an anti-aging effective device according to the instant claims. Similarly, the alleged teachings of Lorenz, if accepted as describing a skin adhesive biogel, fail to remedy the above deficiencies noted for the primary reference. Lorenz does not provide an anti-aging effective compound, or any device to prevent or alleviate symptoms of skin aging--and a

proposed combination of Meckelburg and Lorenz would not remedy the deficiencies of Meckelburg to yield an anti-aging effective device according to the instant claims.

In view of the foregoing, the rejections of claims 14, 15 and 24 over Meckelburg in view of Korol, US 4,747,845, claims 18-19 over Meckelburg in view of Lorenz, US 5,306,504 A, and claims 20, 21 and 23 over Meckelburg in view of Kaddurah-Daouk, US 6,242,491 B1 should be withdrawn.

### CONCLUSION

In view of the foregoing, Applicants believe that all claims now pending in this Application are in condition for allowance, and thus an official action to that end is urged. If the Examiner believes that a telephone conference would aid in the prosecution of this case in any way, please call the undersigned at (425) 455-5575.

DATED this 16<sup>th</sup> day of August, 2005.

Respectfully submitted,

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